

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EDWARD GIBBS,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 07-36-JJF
)	
THOMAS CARROLL , Warden)	
and JOSEPH R. BIDEN, III , Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Edward Gibbs, has applied for federal habeas relief, alleging error by the state courts. D.I. 2. By the terms of the Court's order, the answer is due to be filed on April 30, 2007.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. However, due to the one vacancy currently in the Appeals Division, the workload for the remaining attorneys has greatly increased. Counsel is doing his best to prioritize cases by date received. Further, the Chief of the Appeals Division must review all filings prior to submission and has been unable to do so due to his own substantial caseload. Finally, counsel has been preparing for oral argument before the state supreme court scheduled for May 2, 2007. In light of the

situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including May 30, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: April 30, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Counsel for Respondents

Date: April 30, 2007

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on April 30, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Edward Gibbs
SBI No. 00148876
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612
james.wakley@state.de.us

Date: April 30, 2007

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)	
Respondents.)	

ORDER

This ____ day of _____, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before May 30, 2007.

United States District Judge